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ENCLOSURES *(Check all that apply)*

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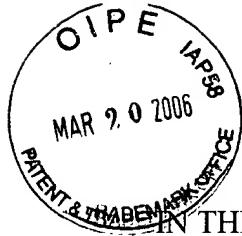
IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of: §	
William K. Bodin, *et al.* §	Group Art Unit: 2154
§	
Serial No.: 09/881,915 §	Examiner: Patel, Haresh N.
§	
Filed: June 14, 2001 §	Atty Docket No.: AUS920010502US1
§	
Title: Streaming Digital Content §	
Under Remote Direction §	
§	

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AMENDED APPEAL BRIEF

Honorable Commissioner:

This is an Amended Appeal Brief filed pursuant to 37 CFR § 41.37 in response to the Notification of Non-Compliant Appeal Brief mailed on February 21, 2006. The original Appeal Brief, which this filing amends, was filed on November 30, 2005, pursuant to 37 CFR § 41.37 in response to the Final Office Action mailed on June 30, 2005 ("Final Office Action"), and pursuant to the Notice of Appeal filed September 30, 2005.

REAL PARTY IN INTEREST

The real party in interest in accordance with 37 CFR § 41.37(c)(1)(i) is the patent assignee, International Business Machines Corporation ("IBM"), a New York corporation having a place of business at Armonk, New York 10504.

RELATED APPEALS AND INTERFERENCES

There are no related appeals or interferences within the meaning of 37 CFR §
41.37(c)(1)(ii).

STATUS OF CLAIMS

Status of claims in accordance with 37 CFR § 41.37(c)(1)(iii): Thirty six claims are filed
in the original application in this case. Claims 1-36 are rejected in the Final Office
Action. Claims 1-36 are on appeal.

STATUS OF AMENDMENTS

Status of amendments in accordance with 37 CFR § 41.37(c)(1)(iv): No amendments
were submitted after final rejection. The claims as currently presented are included in the
Appendix of Claims that accompanies this Appeal Brief.

SUMMARY OF CLAIMED SUBJECT MATTER

Applicants provide the following concise summary of the claimed subject matter
according to 37 CFR § 41.37(c)(1)(v), including references to the specification by page
and line number and to the drawings by reference characters. Claim 1 is a method claim.
Claim 1 claims:

1. A method of remote direction of streaming digital content from a multiplicity of
sources of digital information to a multiplicity of client devices the method
implemented upon a network of digital computers, at least one of the digital
computers comprising a content server upon which the steps of the method are
implemented in computer memory and at least one computer processor, the
method comprising the steps of:

receiving digital content from the sources, the digital content having a multiplicity of digital formats;

receiving, from a remote director, and storing in computer memory, remote director instructions, the remote director instructions including instructions for selections of digital content for inclusion in an output stream;

carrying out the remote director instructions, wherein carrying out the remote director instructions further comprises:

selecting, in dependence upon the remote director's instructions, digital content for inclusion in an output stream;

transcoding, in dependence upon the remote director's instructions, the digital content from sources into digital content having streaming format;

including in an output stream, in dependence upon the remote director's instructions, digital content having streaming format;

communicating, in dependence upon the remote director's instructions, to at least one of the client devices the output stream.

The means plus function claim elements permitted by 35 U.S.C. § 112, sixth paragraph, for independent claim 13 are identified as follows. Note the precise correspondence with the elements of claims 1 and 25:

13.   A system for remote direction of streaming digital content from a multiplicity of sources of digital information to a multiplicity of client devices the system implemented upon a network of digital computers, at least one of the digital computers comprising a content server upon which the system is implemented in computer memory and upon at least one computer processor, the system

comprising:

means for **receiving** digital content from the sources, the digital content having a multiplicity of digital formats;

means for **receiving**, from a remote director, and storing in computer memory, remote director instructions, the remote director instructions including instructions for selections of digital content for inclusion in an output stream;

means for **transcoding** the digital content from sources into digital content having streaming format;

means for **including** in an output stream, in dependence upon the remote director's instructions, digital content having streaming format;

means for **communicating** to at least one of the client devices the output stream.

The means plus function claim elements permitted by 35 U.S.C. § 112, sixth paragraph, for independent claim 25 are identified as follows. Note the precise correspondence with the elements of claims 1 and 13:

25.   A computer program product for remote direction of streaming digital content from a multiplicity of sources of digital information to a multiplicity of client devices the system implemented upon a network of digital computers, at least one of the digital computers comprising a content server upon which the system is implemented in computer memory and upon at least one computer processor, the computer program product comprising:

a recording medium;

means, recorded on the recording medium, for receiving digital content from the sources, the digital content having a multiplicity of digital formats;

means, recorded on the recording medium, for **receiving**, from a remote director, and storing in computer memory, remote director instructions, the remote director instructions including instructions for selections of digital content for inclusion in an output stream;

means, recorded on the recording medium, for **transcoding** the digital content from sources into digital content having streaming format;

means, recorded on the recording medium, for **including** in an output stream, in dependence upon the remote director's instructions, digital content having streaming format;

means, recorded on the recording medium, for **communicating** to at least one of the client devices the output stream.

The portion of the original specification that is most pertinent to claim 1 of the present application is page 13, line 5, through page 14, line 2, Figure 1, and Figure 2. The subject matter of claim 1 is concisely summarized as follows with a description beginning at line 5 of page 13 in the original application and with reference numbers in parenthesis referencing Figures 1 and 2:

Referring to Figure 1, an aspect of the invention is seen as a system for remote direction of streaming digital content from a multiplicity of sources (106) of digital information to a multiplicity of client devices (102) implemented upon a network (108) of digital computers, at least one of the digital computers comprising a content server (100) upon which system is implemented in computer memory and at least one computer processor.

A more detailed example embodiment is shown in Figure 2 as including a method of remote direction of streaming digital content. The example of Figure 2 includes also receiving (221) digital content from sources (106), the digital content having many different digital formats. Examples of digital formats useful with various embodiments of the invention include JPEG, MP3, MPEG, GIF, HTML, text, XML, and the like. Other digital formats for digital content will occur to those of skill in the art, all of which formats are useful with embodiments of the present invention.

A further embodiment shown in Figure 2 includes receiving (202), from a remote director (104), and storing in computer memory, remote director instructions (204), the remote director instructions including instructions for selections of digital content for inclusion in an output stream. The illustrated embodiment further includes transcoding (220) the digital content from sources into digital content having streaming format (223).

The illustrated embodiment also includes in at least one output stream (225), in dependence upon the remote director's instructions, digital content having streaming format. The illustrated embodiment, as do typical embodiments, includes communicating through a data communications network to at least one client device (102) the output stream (225).

Because claims 13 and 25 contain elements parallel to claim 1, the concise summary above of claim 1 is applicable also to claims 13 and 25. The acts described in this concise summary above of the method of claim 1 are also the acts corresponding to each claimed function in the means plus functions claimed in claims 13 and 25 according to 35 U.S.C. § 112, sixth paragraph.

GROUNDS OF REJECTION

In accordance with 37 CFR § 41.37(c)(1)(vi), Applicants provide the following concise statement for each ground of rejection:

1. Whether claims 1-22 are unpatentable 2005 for obviousness-type double patenting over claims 1-22 of co-pending Application No. 09/882174, over claims 10-15 of co-pending Application No. 09/881919, over claims 1-20 of co-pending Application No. 09/881917, and over claims 1-12 of co-pending Application No. 09/882173.

2. Whether claims 1-36 are unpatentable under 35 U.S.C § 103(a) over a first reference entitled *Application Server Solution Guide, Enterprise Edition: Getting Started*, Nusbaum, et al., May 2000, pages 1-45, 416-434 (hereafter 'Nusbaum'), and in view of a second reference entitled *Java Media Framework API Guide*, JMP 2.0 FCS, November 19, 1999, Sun Microsystems, pages 1-66, 109-135, 173-178 (hereafter 'Sun').

ARGUMENT

Applicants present the following arguments pursuant to 37 CFR § 41.37(c)(1)(vii) regarding the two grounds of rejections in the present case.

Argument Regarding The First Ground Of Rejection: Whether Claims 1-22 Are Unpatentable For Obviousness-Type Double Patenting Over Claims 1-22 Of Co-Pending Application No. 09/882174, Over Claims 10-15 Of Co-Pending Application No. 09/881919, Over Claims 1-20 Of Co-Pending Application No. 09/881917, And Over Claims 1-12 Of Co-Pending Application No. 09/882173

All claims in the present application are rejected in the Final Office Action for obviousness-type double patenting over claims 1-22 of co-pending Application No.

09/882174, over claims 10-15 of co-pending Application No. 09/881919, over claims 1-20 of co-pending Application No. 09/881917, and over claims 1-12 of co-pending Application No. 09/882173.

The law governing double patenting is that the analysis employed in an obviousness-type double patenting determination parallels the guidelines for a 35 U.S.C. § 103(a) rejection. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966) are applied for establishing a background for determining obviousness under 35 U.S.C. § 103 and are employed when making an obviousness-type double patenting rejection. *Manual of Patent Examining Procedure* § 804 IIB1. The *Graham* factual inquiries require the Examiner to:

- determine the scope and content of the art as described in each co-pending application;

- determine the differences between the scope and content of the art as described in each co-pending application and the claims at issue;

- determine the level of ordinary skill in the pertinent art; and

- evaluate any objective indicia of nonobviousness.

<u>Co-pending Application No. 09/882174</u>

The Final Office Action rejects claims 1-36 for obviousness-type double patenting as being unpatentable over 1-22 of co-pending Application No. 09/882174. The Final Office Action at page 8 states:

> ... they are not patentably distinct from each other because the limitations of the independent claims 1, 13, 26 are similar to claim 1 of co-pending Application No. 09/882174. The limitations, "remote direction of

streaming digital content from a content server to a client devices using remote director" is equivalent to the use of content information, transcoding gateway for providing director instructions to stream digital content, and the use of email containing digital content. The limitations of dependent claims 2-12, 14-23, 26-36, are similar to claims 2-22 of co-pending Application No. 09/882174.

As described above, the Final Office Action must apply the *Graham* factors to establish the required background for a double patenting rejection. Although the Final Office Action does not even mention the *Graham* factors, the Final Office Action at pages 8 and 9 states:

> The co-pending application handles transcoding information using the network device. The current application also handles transcoding information using the network device. The claimed subject matter of the co-pending application does not mention about the transcoding being done using remote director instruction. However, the concept of using remote director instructions is well known in the art. For example, Nusbaum discloses usage of remote director instructions (e.g., servlet aliases, servlet URLs, sections 1.1 and 1.2, pages 1 and 2). The remote director instructions would help provide instructions to perform the transcoding from a remote device.

Applicants take the assertion in the Final Office Action that co-pending Application No. 09/882174 "handles transcoding information using the network device" as a determination under *Graham* of the scope and content of the art as described in co-pending application No. 09/882174. In response, Applicants note that the Final Office Action mischaracterizes co-pending application No. 09/882174 by asserting that the co-pending application transcodes information using a network device. Co-pending application No. 09/882174 claims a transcoding gateway for "transcoding the digital object into a digital file having a digital format and a file name...." The scope and

content of the art as described in co-pending application No. 09/882174 therefore includes a transcoding gateway that transcodes a digital object into a digital file having a digital format and a file name. The scope and content of the art as described in co-pending application No. 09/882174 does not include any network device that transcodes information as asserted in the Final Office Action. Because the Final Office Action does not properly determine the scope and content of the art as described in co-pending application No. 09/882174, the Final Office Action does not establish the necessary background for determining obviousness. Without establishing the necessary background for determining obviousness, the Final Office Action cannot support an obviousness-type double patenting rejection, and the rejections of claims 1-36 should be withdrawn.

Applicants take the assertion in the Final Office Action that "[t]he current application also handles transcoding information using the network device" and that "[t]he claimed subject matter of the co-pending application does not mention about the transcoding being done using remote director instruction" as a determination under *Graham* of the differences between the scope and content of the art as described in co-pending application No. 09/882174 and the claims at issue. In response, Applicants note that the Final Office Action mischaracterizes the present application by asserting that the present application transcodes information using a network device. The present application claims a content server for "transcoding, in dependence upon the remote director's instructions, the digital content from sources into digital content having streaming format…." The scope and content of the art as described in the present application therefore includes a content server that transcodes, in dependence upon the remote director's instructions, the digital content from sources into digital content having streaming format, not any network device that transcodes information as asserted in the Final Office Action. Because the Final Office Action does not properly determine the scope and content of the art as described in the present application, the Final Office Action cannot determine the differences between the scope and content of the art as described in co-pending application No. 09/882174 and the claims at issue. The Final Office Action therefore does not establish the necessary background for determining obviousness. Without establishing the necessary background for determining

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obviousness, the Final Office Action cannot support an obviousness-type double patenting rejection, and the rejections of claims 1-36 should be withdrawn.

Applicants further assume that the Final Office Action at pages 8 and 9 attempts to determine under *Graham* the level of ordinary skill in the pertinent art by stating:

> However, the concept of using remote director instructions is well known
> in the art. For example, Nusbaum discloses usage of remote director
> instructions (e.g., servlet aliases, servlet URLs, sections 1.1 and 1.2, pages
> 1 and 2). The remote director instructions would help provide instructions
> to perform the transcoding from a remote device.

The Final Office Action cites sections 1.1 and 1.2 of Nusbaum in an attempt to determine that remote director instructions are within the level of ordinary skill in the pertinent art. In response, Applicants note that Nusbaum is not 'pertinent art' available for determining under *Graham* the level of ordinary skill in the pertinent art because Nusbaum is not in the field of the Applicants' endeavor or reasonably pertinent to the particular problem with which the Applicants were concerned. In fact, Nusbaum cannot be a reference against the claims of the present application because Nusbaum does actually represent nonanalogous art within the meaning of *In Re Horn*, *Clay*, and *Oeitker*. *In re Horn*, 203 USPQ 969 (CCPA 1979), *In re Clay*, 966 F.2d 656, 23 USPQ2d 1058 (Fed. Cir. 1992), *In re Oeticker*, 977 F.2d 1443, 24 USPQ2d 1443 (Fed. Cir. 1992). The field of the inventors' effort in this case is streaming digital content under remote direction. The present application claims, among other things, receiving digital content from the sources, the digital content having a multiplicity of digital formats, receiving, from a remote director, and storing in computer memory, remote director instructions, the remote director instructions including instructions for selections of digital content for inclusion in an output stream, and transcoding, in dependence upon the remote director's instructions, the digital content from sources into digital content having streaming format. The field of Nusbaum is dynamic web pages for the World Wide Web – which has nothing to do with the technical field of the present application and is not reasonably

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pertinent to the particular problem with which the Applicants were concerned. Because Nusbaum is neither within the field of the inventor's endeavor in this case nor reasonably pertinent to the particular problem with which the Applicants were concerned, Nusbaum is not pertinent art available for determining the level of ordinary skill in the pertinent art under *Graham*. The Final Office Action therefore cannot establish the necessary background for determining obviousness and cannot support an obviousness-type double patenting rejection. The rejections of claims 1-36 should be withdrawn.

Even if Nusbaum was pertinent art, which Nusbaum is not, sections 1.1 and 1.2 of Nusbaum do not disclose usage of remote director instructions as claimed in the present application. What section 1.1 of Nusbaum actually discloses is a general use of the term 'application' in the context of IBM's WebSphere® product that provides integration and application infrastructure. What section 1.2 of Nusbaum actually discloses is a general description of Java servlets. A Java servlet is a software module that extends request/response oriented servers, such as Java-enabled web servers. Sections 1.1 and 1.2 of Nusbaum have nothing to do with remote director instructions. Nusbaum's general use of an application in the context of WebSphere® and Nusbaum's general description of Java servlets does not disclose remote director instructions as claimed in the present application. Because sections 1.1 and 1.2 of Nusbaum do not disclose remote director instructions as claimed in the present application, the Final Office Action does not properly establish the level of ordinary skill in the pertinent art. The Final Office Action therefore does not establish the necessary background for determining obviousness and cannot support an obviousness-type double patenting rejection. The rejections of claims 1-36 should be withdrawn.

<u>Co-Pending Application No. 09/881919</u>

The Final Office Action rejects claims 1-36 for obviousness-type double patenting as being unpatentable over claims 10-15 of co-pending Application No. 09/881919. The Final Office Action at page 9 states:

... they are not patentably distinct from each other because the limitations of the independent claims 1, 13, 26 are similar to claim 10 of co-pending Application No. 09/881919. The limitations, "remote direction of streaming digital content from a content server to a client devices using remote director" is equivalent to the use of a content server through which digital content is transcoded into streams of multimedia data, the streams communicated via network to client devices, use of the digital content for streaming, use of remote director instructions comprising hyperlinked URSs invoked through a network-capable device. The limitations of dependent claims 2-12, 14-23, 26-36, are similar to claims 11-15 of co-pending Application No. 09/881919.

As described above, the Final Office Action must apply the *Graham* factors to establish the required background for a double patenting rejection. Although the Final Office Action does not even mention the *Graham* factors, the Final Office Action does recite the same assertions made regarding co-pending Application No. 09/882174 above by stating:

> The co-pending application handles transcoding information using the network device. The current application also handles transcoding information using the network device. The claimed subject matter of the co-pending application does not mention about the transcoding being done using remote director instruction. However, the concept of using remote director instructions is well known in the art. For example, Nusbaum discloses usage of remote director instructions (e.g., servlet aliases, servlet URLs, sections 1.1 and 1.2, pages 1 and 2). The remote director instructions would help provide instructions to perform the transcoding from a remote device.

Applicants take such assertions as an attempt to apply the *Graham* factors regarding this co-pending Application No. 09/881919. In response, Applicants note that the Final Office Action does not establish the necessary background for determining obviousness

for the reasons discussed above with regard to co-pending Application No. 09/882174. The Final Office Action therefore cannot support an obviousness-type double patenting rejection, and the rejections of claims 1-36 should be withdrawn.

<div align="center">Co-Pending Application No. 09/881917</div>

The Final Office Action rejects claims 1-36 for obviousness-type double patenting as being unpatentable over claims 1-20 of co-pending Application No. 09/881917. The Final Office Action at page 10 states:

> ... they are not patentably distinct from each other because the limitations of the independent claims 1, 13, 26 are similar to claim 1 of co-pending Application No. 09/881917. The limitations, "remote direction of streaming digital content from a content server to a client devices using remote director" is equivalent to the use of streaming digital content from a multiplicity of sources of digital information to a multiplicity of client devices, use of network of digital computers comprising a content server. The limitations of dependent claims 2-12, 14-23, 26-36, are similar to claims 2-20 of co-pending Application No. 09/881917.

As described above, the Final Office Action must apply the *Graham* factors to establish the required background for a double patenting rejection. Although the Final Office Action does not even mention the *Graham* factors, the Final Office Action does recite the same assertions made regarding co-pending Application No. 09/882174 above by stating:

> The co-pending application handles transcoding information using the network device. The current application also handles transcoding information using the network device. The claimed subject matter of the co-pending application does not mention about the transcoding being done using remote director instruction. However, the concept of using remote director instructions is well known in the art. For example, Nusbaum

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discloses usage of remote director instructions (e.g., servlet aliases, servlet URLs, sections 1.1 and 1.2, pages 1 and 2). The remote director instructions would help provide instructions to perform the transcoding from a remote device.

Applicants take such assertions as an attempt to apply the *Graham* factors regarding this co-pending Application No. 09/881917. In response, Applicants note that the Final Office Action does not establish the necessary background for determining obviousness for the reasons discussed above with regard to co-pending Application No. 09/882174. The Final Office Action therefore cannot support an obviousness-type double patenting rejection, and the rejections of claims 1-36 should be withdrawn.

<u>Co-Pending Application No. 09/882173</u>

The Final Office Action rejects claims 1-36 for obviousness-type double patenting as being unpatentable over claims 1-12 of co-pending Application No. 09/882173. The Final Office Action at page 11 states:

> ... they are not patentably distinct from each other because the limitations of the independent claims 1, 13, 26 are similar to claim 1 of co-pending Application No. 09/882173. The limitations, "remote direction of streaming digital content from a content server to a client devices using remote director" is equivalent to the use of remote direction of streaming digital content from a multiplicity of sources of digital information to a multiplicity of client devices upon a network of digital computer comprising a content server receiving digital content from the sources and the digital content having a multiplicity of digital formats. The limitations of dependent claims 2-12, 14-23, 26-36, are similar to claims 2-12 of co-pending Application No. 09/882173.

As described above, the Final Office Action must apply the *Graham* factors to establish the required background for a double patenting rejection. Although the Final Office Action does not even mention the *Graham* factors, the Final Office Action does recite the same assertions made regarding co-pending Application No. 09/882174 above by stating:

> The co-pending application handles transcoding information using the network device. The current application also handles transcoding information using the network device. The claimed subject matter of the co-pending application does not mention about the transcoding being done using remote director instruction. However, the concept of using remote director instructions is well known in the art. For example, Nusbaum discloses usage of remote director instructions (e.g., servlet aliases, servlet URLs, sections 1.1 and 1.2, pages 1 and 2). The remote director instructions would help provide instructions to perform the transcoding from a remote device.

Applicants take such assertions as an attempt to apply the *Graham* factors regarding this co-pending Application No. 09/882173. In response, Applicants note that the Final Office Action does not establish the necessary background for determining obviousness for the reasons discussed above with regard to co-pending Application No. 09/882174. The Final Office Action therefore cannot support an obviousness-type double patenting rejection, and the rejections of claims 1-36 should be withdrawn.

Conclusion Regarding The First Ground Of Rejection

The Final Office Action does not establish the necessary background for determining obviousness required by an obviousness-type double patenting rejection of claims 1-36 in the present application over claims 1-22 of co-pending Application No. 09/882174, over claims 10-15 of co-pending Application No. 09/881919, over claims 1-20 of co-pending Application No. 09/881917, and over claims 1-12 of co-pending Application No. 09/882173. Based on the reasoning provided in the Final Office Action, no person of ordinary skill in the art would conclude that claims 1-36 in the present case are obvious in view of claims 1-22 of co-pending Application No. 09/882174, over claims 10-15 of co-pending Application No. 09/881919, over claims 1-20 of co-pending Application No. 09/881917, and over claims 1-12 of co-pending Application No. 09/882173. Applicants therefore respectfully traverse the rejections of claims 1-36 and request reconsideration of claims 1-36 in light of the present remarks.

Argument Regarding The Second Ground Of Rejection: Whether Claims 1-36 Are Unpatentable Under 35 U.S.C § 103(a) Over Nusbaum In View Of Sun

Independent claim 1 stands rejected for obviousness under 35 U.S.C § 103(a) as unpatentable over a first reference entitled *Application Server Solution Guide, Enterprise Edition: Getting Started*, Nusbaum, et al., May 2000, pages 1-45, 416-434 (hereafter 'Nusbaum'), and in view of a second reference entitled *Java Media Framework API Guide*, JMP 2.0 FCS, November 19, 1999, Sun Microsystems, pages 1-66, 109-135, 173-178 (hereafter 'Sun'). To establish a prima facie case of obviousness, three basic criteria must be met. *Manual of Patent Examining Procedure* §2142. The first element of a prima facie case of obviousness under 35 U.S.C. § 103 is that Nusbaum and Sun must teach or suggest all of Applicants' claim limitations. *In re Royka*, 490 F.2d 981, 985, 180 USPQ 580, 583 (CCPA 1974). The second element of a prima facie case of obviousness under 35 U.S.C. § 103 is that there must be a suggestion or motivation to combine Nusbaum and Sun. *In re Vaeck*, 947 F.2d 488, 493, 20 USPQ2d 1438, 1442 (Fed. Cir.

1991). The third element of a prima facie case of obviousness under 35 U.S.C. § 103 is that there must be a reasonable expectation of success in the proposed combination of Nusbaum and Sun. *In re Merck & Co., Inc.,* 800 F.2d 1091, 1097, 231 USPQ 375, 379 (Fed. Cir. 1986). As demonstrated below, the combination of Nusbaum and Sun does not establish a prima facie case of obviousness for independent claim 1. The rejection of all claims 1-36 should therefore be withdrawn and the case should be allowed.

<u>Nusbaum and Sun Do Not Teach Each And</u>
<u>Every Element of the Independent Claim 1</u>

To establish a prima facie case of obviousness, the proposed combination of Nusbaum and Sun must disclose all of Applicants' claim limitations. *In re Royka*, 490F.2d 981, 985, 180 USPQ 580, 583 (CCPA 1974). Independent claim 1 of the present application claims:

1. A method of remote direction of streaming digital content from a multiplicity of sources of digital information to a multiplicity of client devices the method implemented upon a network of digital computers, at least one of the digital computers comprising a content server upon which the steps of the method are implemented in computer memory and at least one computer processor, the method comprising the steps of:

receiving digital content from the sources, the digital content having a multiplicity of digital formats;

receiving, from a remote director, and storing in computer memory, remote director instructions, the remote director instructions including instructions for selections of digital content for inclusion in an output stream;

carrying out the remote director instructions, wherein carrying out the remote director instructions further comprises:

selecting, in dependence upon the remote director's instructions, digital content for inclusion in an output stream;

transcoding, in dependence upon the remote director's instructions, the digital content from sources into digital content having streaming format;

including in an output stream, in dependence upon the remote director's instructions, digital content having streaming format; and

communicating, in dependence upon the remote director's instructions, to at least one of the client devices the output stream.

In rejecting claim 1, the Final Office Action at page 13 states that Nusbaum teaches "remote direction (e.g., figure 5, page 13)...." What Figure 5 on page 13 of Nusbaum actually depicts is a general "EJB environment and interaction with other components," where 'EJB' stands for Enterprise JavaBeans™. An Enterprise JavaBeans™ is a server-side object that conforms to the Enterprise JavaBeans™ Specification. The EJB specification describes the server-side component architecture of the Java 2 Enterprise Edition ('J2EE') platform that provides a framework for components to "plug in" to a server and extend that server's functionality. A server-side object that conforms to the Enterprise JavaBeans™ Specification is not remote direction of streaming digital content as claimed in the present application. Nusbaum's EJB environment and EJB interaction with other components therefore does not teach remote direction of streaming digital content as claimed in the present application. The Final Office Action does not produce references that teach each and every element of independent claim 1 and the rejections should be withdrawn.

In rejecting claim 1, the Final Office Action at pages 13 and 14 also states that Nusbaum teaches:

> receiving, from a remote director, and storing in computer memory, remote director instructions (e.g., section 1.2.4, page 6, section 2.1.1.1, pages 31 and 32, section 8.1.8, page 417)
>
> ...
>
> the remote director instructions including instructions for selections of digital content for inclusion in an output streaming (e.g., section 1.2.4, page 6, sections 2.1.1.1, pages 31 and 32, section 8.1.8, page 417)
>
> ...
>
> carrying out the remote director instructions (e.g., section 1.2.4, page 6, section 2.1.1.1, pages 31 and 32, section 8.1.8, page 417), wherein carryout out the remote director instructions further comprises:
>
> selecting, in dependence upon the remote director's instructions, digital content for inclusion in an output stream (e.g., section 1.2.4, page 6)
>
> ...
>
> in dependence upon the remote director's instructions handling the digital content from sources (e.g. section 2.1.1.1, pages 31 and 32)
>
> ...
>
> including in an output streaming, in dependence upon the remote director's instructions, to at least one of the client devices the output stream (e.g. section 1.2.4, page 6)
>
> ...
>
> communicating, in dependence upon the remote director's instructions, to at least one of the client devices the output stream (e.g., section 1.2.4, page 6).

That is, the Final Office Action relies on Nusbaum at section 1.2.4 on page 6, section 2.1.1.1 on pages 31 and 32, and section 8.1.8 on page 417 to teach the following claim elements and limitations:

- receiving, from a remote director, and storing in computer memory, remote director instructions, the remote director instructions including instructions for selections of digital content for inclusion in an output stream

- carrying out the remote director instructions, wherein carrying out the remote director instructions further comprises

- selecting, in dependence upon the remote director's instructions, digital content for inclusion in an output stream

- transcoding, in dependence upon the remote director's instructions, the digital content from sources into digital content having streaming format

- including in an output stream, in dependence upon the remote director's instructions, digital content having streaming format

- communicating, in dependence upon the remote director's instructions, to at least one of the client devices the output stream

What section 1.2.4 of Nusbaum actually teaches is an application programming interface ('API') for a JavaServlet™. A servlet is a small Java computer program running in a server environment that allows a software developer to add dynamic content to a web server. Such Java technology for generating dynamic web pages is known as Java Server Pages, or 'JSP.' Section 2.1.1.1 of Nusbaum actually teaches an EJB server architecture that includes an "EJB server runtime," "EJB containers," and "Enterprise Java beans" that together provide services such as a "deployment tool," "naming services," and "security services." Section 8.1.8 of Nusbaum actually teaches a "DMT interface" for

"connect[ing] to one or more directory servers...," where 'DMT' stands for Directory Management Tool. Nusbaum's details of the JavaServlet™ API, EJB server architecture, and directory management tool interface have nothing whatsoever to do with the elements and limitations of the claims of the present invention for which the Final Office Action cites the Nusbaum references. In fact, Nusbaum never once mentions remote direction of streaming digital content, remote directors, or remote director instructions as claimed in the present application. The fact that Nusbaum makes some general references to network communications or that Sun makes general references to streaming media is completely insufficient to anticipate or suggest claim elements in the present application. Nusbaum's servlet API details, EJB server architecture, and directory management tool interface therefore does not teach the elements and limitations of the claims of the present application as cited in the Final Office Action. Because The Final Office Action does not produce references that teach each and every element of independent claim 1, the rejections should be withdrawn.

In rejecting claim 1, the Final Office Action at page 14 states that Sun teaches:

> Sun teaches streaming digital content and transcoding (e.g., transcoding the video contents, page 33) into digital content having streaming format objects and the digital content having a multiplicity of digital formats (e.g., streaming media as per remote instruction, page 4, MPEG, JPEG, etc., video formatted content, page 6).

That is, the Final Office Action takes the position that pages 4, 6, and 33 of Sun teach "digital content having a multiplicity of digital formats..." and "transcoding...digital content from sources into digital content having streaming format..." as claimed in the present application. What page 4 of Sun actually teaches is definitions to some common terms used in streaming media including 'content type,' 'media stream,' 'multiplex,' 'track,' and so on. Page 6 of Sun merely discloses a chart of common video and audio formats. What page 33 of Sun actually teaches is a definition of transcoding as a "process of converting each track of media data from one input format to another." Sun's

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definition of transcoding and of some common streaming media terms along with Sun's chart of common video and audio formats does not teach "digital content having a multiplicity of digital formats…" and "transcoding…digital content from sources into digital content having streaming format…" as claimed in the present application. The Final Office Action does not produce references that teach each and every element of independent claim 1, and the rejections should be withdrawn.

<div align="center">

The Cited References Set Forth No Suggestion Or

Motivation To Combine Nusbaum and Sun

</div>

To establish a prima facie case of obviousness, there must be a suggestion or motivation to modify or combine Nusbaum and Sun. *In re Vaeck*, 947 F.2d 488, 493, 20 USPQ2d 1438, 1442 (Fed. Cir. 1991). "The mere fact that references can be combined or modified does not render the resultant combination obvious unless the prior art also suggests the desirability of the combination." In re Mills, 916 F.2d 680, 16 USPQ2d 1430 (Fed. Cir. 1990). Applicants noted in their response to the First Office Action dated September 24, 2004 ("First Office Action") that the First Office Action does not point to any disclosure in Nusbaum or Sun suggesting the desirability of the combination. Absent such a showing of desirability to combine Nusbaum and Sun, the Examiner impermissibly used "hindsight" occasioned by Applicants' own teaching to reject the claims. *In re Surko*, 11 F.3d 887, 42 U.S.P.Q.2d 1476 (Fed. Cir. 1997); *In re Vaeck*, 947 F.2d 488, 20 U.S.P.Q.2d 1438 (Fed. Cir. 1991); *In re Gorman*, 933 F.2d 982, 986, 18 U.S.P.Q.2d 1885, 1888 (Fed. Cir. 1991); *In re Bond*, 910 F.2d 831, 15 U.S.P.Q.2d 1566 (Fed. Cir. 1990); *In re Laskowski*, 871 F.2d 115, 117, 10 U.S.P.Q.2d 1397, 1398 (Fed. Cir. 1989). Because the First Office Action did not establish a prima facie case, Applicants argued that the rejections should be withdrawn.

In response to Applicants' response to the First Office Action, the Final Office Action at pages 2 and 3 argues that Nusbaum and Sun are properly combined for an obviousness rejection under 35 U.S.C. § 103 on the grounds that:

<div align="center">23</div>

Nusbaum teaches a method, a system, and a computer program product to implement remote direction (e.g., figure 5, page 13) of handling information from a multiplicity of sources of digital information to a multiplicity of client devices (e.g., section 1.2.4, page 6, section 2.1.1.1, pages 31 and 32, section 8.1.8, page 417) the method implemented upon a network of digital computers (e.g., figure 5, page 13, at least one of the digital computers comprising a content server upon which the steps of the method are implemented (e.g., section 1.2.4, page 6, section 2.1.1.1, pages 31 and 32, section 8.1.8, page 417) in computer memory and at least one computer processor (e.g., server containing web content, page 13) the method comprising the steps of: receiving digital content from the sources (e.g., section 1.2.4, page 6, section 2.1.1.1, pages 31 and 32, section 8.1.8, page 417) receiving, from a remote director, and storing in computer memory, remote director instructions (e.g. 1.2.4, page 6, section 2.1.1.1, pages 31 and 32, section 8.1.8, page 417), the remote director instructions including instructions for selections of digital content for inclusion in an output streaming (e.g., section 1.2.4, page 6, section 2.1.1.1, pages 31 and 32, section 8.1.8, page 417); carrying out the remote director instructions (e.g. section 1.2.4, page 6, section 2.1.1.1, pages 31 and 32, section 8.1.8, page 417). Sun teaches well known concept of streaming digital content and transcoding (e.g., transcoding the video contents, page 33) into digital content having streaming format objects and the digital content having a multiplicity of digital formats (e.g., streaming media, page 4, MPEG, JPEG, etc., video formatted content, page 6).

That is, the Final Office Action responds to Applicants' argument that there is no suggestion or motivation to combine Nusbaum and Sun by stating that Nusbaum and Sun teach various elements and limitations of the independent claims. As explained in detail above, the cited references in fact do not teach remote direction of streaming digital content from a multiplicity of sources of digital information to a multiplicity of client devices as claimed in the present application. Nusbaum generally teaches a kind of

dynamic web page technology known as Java Server Pages. What Nusbaum teaches specifically at Figure 5 is an Enterprise JavaBean™ environment and its interaction with other network components. Section 1.2.4 of Nusbaum specifically teaches an application programming interface ('API') for a JavaServlet™. Section 2.1.1.1 of Nusbaum specifically teaches an Enterprise JavaBean™ server architecture, while section 8.1.8 of Nusbaum specifically teaches a Directory Management Tool interface. Sun generally teaches the Java Media API, an application programming interface for deliver of time-based media. What Sun teaches specifically at pages 4, 6, and 33 is a general description of streaming media and content types, common audio formats, and a general description of media player operations. Not only do the cited portions of the references fail to disclose or suggest elements of the present claims, even if they did so, the Final Office Action cannot arbitrarily pick and choose with massive hindsight elements of Applicants' claims from Java Server Pages and the Java Media API and use them as a basis to conclude the present claims invalid for obviousness. For these reasons, Applicants continue to assert that there is no suggestion or motivation to combine Nusbaum and Sun. The proposed combination of Nusbaum and Sun therefore cannot support a prima facie case of obviousness. The rejections to claims 1-36 should be withdrawn, and the case should be allowed.

The Final Office Action at page 2 citing *In re Keller*, 642 F.2d 413, 425, 208 USPQ 871, 881 (CCPA 1981) and *In re Young*, 927 F.2d 588, 591 18 USPQ2d 1089, 1091 (Fed. Cir. 1991), also argues that:

> the test for obviousness is not whether the features of a secondary
> reference may be bodily incorporated into the structure of a primary
> reference. It is also not that the claimed invention must be expressly
> suggested in any one or all of the references. Rather, the test is what the
> combined teachings of the references would have suggested to those of
> skill in the art.

In this way, the Final Office Action implicitly argues that there is no need for the Examiner to demonstrate that the references provide motivation or suggestion to combine or that there is any reasonable expectation of success in combining the references so long as elements of the present claims are disclosed in the references.

As the Board is well aware, however, such is not the law. The mere fact that references can be combined or modified does not render the resultant combination obvious unless the prior art also suggests the desirability of the combination. *In re Mills*, 916 F.2d 680, 16 USPQ2d 1430 (Fed. Cir. 1990). In fact, the requirement of a prima facie case of obviousness places a burden on the examiner to provide some suggestion of the desirability of doing what the inventor has done. "To support the conclusion that the claimed invention is directed to obvious subject matter, either the references must expressly or impliedly suggest the claimed invention or the examiner must present a convincing line of reasoning as to why the artisan would have found the claimed invention to have been obvious in light of the teachings of the references." *Ex parte Clapp*, 227 USPQ 972, 973 (Bd. Pat. App. & Inter. 1985). When the motivation to combine the teachings of the references is not immediately apparent, it is the duty of the examiner to explain why the combination of the teachings is proper. *Ex parte Skinner*, 2 USPQ2d 1788 (Bd. Pat. App. & Inter. 1986); MPEP § 2142.

The Final Office Action merely continues the practice begun in the First Office Action of pointing to elements of method and system in its cited references and stating that they are the same things claimed in the present patent application. The Final Office Action makes no substantive attempt whatsoever to present a prima facie case of obviousness by pointing to express or implicit suggestion to combine in the references themselves or by explaining or providing any basis for concluding that persons of skill in the art would be moved to combine the references. For these reasons also, Applicants continue to assert that the cited references do not contain a suggestion or motivation to combine. The proposed combination of Nusbaum and Sun therefore cannot support a prima facie case of obviousness. The rejections to claims 1-36 should be withdrawn, and the case should be allowed.

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There Is No Reasonable Expectation Of Success In The
Proposed Combination Of Nusbaum And Sun

To establish a prima facie case of obviousness, there must be a reasonable expectation of success in the proposed combination of Nusbaum and Sun. *In re Merck & Co., Inc.,* 800 F.2d 1091, 1097, 231 USPQ 375, 379 (Fed. Cir. 1986). The Examiner has not pointed to any disclosure in Nusbaum or Sun suggesting any expectation of success in such a combination. In fact, there can be no reasonable expectation of success in the proposed combination of Nusbaum and Sun because Nusbaum and Sun cannot be combined to provide remote direction of streaming digital content as claimed in the present application. The Final Office Action bases this rejection on portions of Nusbaum that includes Figure 5 on page 13, section 1.2.4 on page 6, section 2.1.1.1 on pages 31 and 32, and section 8.1.8 on page 417. As explained above, these references to Nusbaum teach an EJB execution environment and a kind of dynamic web page technology known as Java Server Pages or 'JSP.' The Final Office Action also bases this rejection on portions of Sun that includes page 4, page 6, and page 33, which as explained above, merely provide some definitions regarding streaming media as the terms are used in the Java Media Framework. As described in Nusbaum, dynamic web page technology is methods and systems for building server pages on the fly. Dynamic web pages generally, and JSPs in particular, is not streaming media and does not combine with streaming media to provide remote direction of streaming digital content as claimed in the present application. The proposed combination of Nusbaum and Sun therefore cannot support a prima facie case of obviousness. The rejection should be withdrawn, and the case should be allowed.

Nusbaum Is Not Analogous Art Because It Is Neither In The Field Of Applicants'
Endeavor Nor Reasonably Pertinent To The Particular Problem
With Which The Applicants Were Concerned

The Final Office Action at pages 6 and 7 argues that Nusbaum is analogous art available for rejecting the claims of the present application. The Final Office Action asserts that Nusbaum is in the field of Applicants' endeavor or reasonably pertinent to the particular problem with which the Applicants were concerned. In support for this assertion, the Final Office Action at page 6 and 7 only states that Nusbaum and Sun teach various elements and limitations of the independent claims. As explained in detail above, the cited references in fact do not teach remote direction of streaming digital content from a multiplicity of sources of digital information to a multiplicity of client devices as claimed in the present application. Nusbaum generally teaches a kind of dynamic web page technology known as Java Server Pages. Sun generally teaches the Java Media API, an application programming interface for delivery of time-based media. Without more, Nusbaum's Java Server Pages does not place Nusbaum in the field of Applicants' endeavor or make Nusbaum reasonably pertinent to the particular problem with which the Applicants were concerned, such concern being, remote direction of streaming digital content as claimed in the present application.

In addition, Applicants respectfully propose that Nusbaum cannot be a reference against the claims of the present application because Nusbaum actually represents nonanalogous art within the meaning of *In Re Horn*, *Clay*, and *Oeitker*. *In re Horn*, 203 USPQ 969 (CCPA 1979), *In re Clay*, 966 F.2d 656, 23 USPQ2d 1058 (Fed. Cir. 1992), *In re Oeticker*, 977 F.2d 1443, 24 USPQ2d 1443 (Fed. Cir. 1992). The field of the inventors' effort in this case is remote direction of streaming digital content. The present application claims, among other things, receiving digital content, receiving remote director instructions, and carrying out the remote director instructions. The field of Nusbaum is dynamic web pages for the World Wide Web – which clearly has nothing to do with the technical field of the present application. Nusbaum therefore is not within the field of the inventor's endeavor in this case.

Because Nusbaum is not within the field of the inventor's endeavor in this case, there can be no basis for believing that Nusbaum as a reference would have been considered by one skilled in the particular art working on the relevant problem to which this invention

pertains. That is, there would be no reason for an inventor concerned with remote direction of streaming digital content to search for art regarding dynamic generation of web pages. The two simply have nothing to do with one another. Nusbaum as a reference therefore is neither within the field of the Applicants' endeavor nor reasonably pertinent to the particular problem with which the inventors were involved in the present case. Nusbaum therefore is not available as a reference against the present application. Applicants respectfully propose that for this reason alone the rejection of the present claims 1-36 should be withdrawn, and the claims should be allowed.

### Conclusion Regarding The Second Ground Of Rejection

All claims in the present case stand rejected under 35 U.S.C § 103(a). For the reasons explained above, the combination of Nusbaum and Sun fails to establish a prima face case of obviousness for independent claim 1. Independent claim 1 claims method aspects for remote direction of streaming digital content in accordance with the present invention. Independent claims 13 and 25 claims system and computer program products, respectively, for remote direction of streaming digital content in accordance with the present invention. The combination of Nusbaum and Sun, therefore, fails to establish a prima face case of obviousness for independent claims 13 and 25 for the same reasons as independent claim 1.

The dependent claims of the present application include each and every element and limitation of the independent claims from which they depend. As demonstrated above, the Final Office Action cites only the combination of Nusbaum and Sun to teach or suggest each and every element of the independent claims. All dependent claims in the present case, therefore, stand. The rejection of all the claims 1-36 should be withdrawn, and the claims should be allowed. Applicants respectfully traverse the rejection of claims 1-36 and request reconsideration of claims 1-36 in light of the present remarks.

In view of the forgoing arguments, reversal on all grounds of rejection is requested.

The Commissioner is hereby authorized to charge or credit Deposit Account No. 09-0447 for any fees required or overpaid.
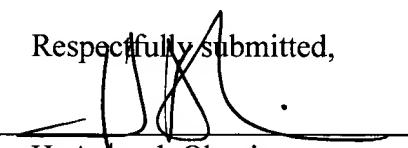
Respectfully submitted,

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APPENDIX OF CLAIMS

ON APPEAL IN PATENT APPLICATION OF

WILLIAM K. BODIN, *ET AL.*, SERIAL NO. 09/881,915

CLAIMS

What is claimed is:

1.   A method of remote direction of streaming digital content from a multiplicity of

sources of digital information to a multiplicity of client devices the method

implemented upon a network of digital computers, at least one of the digital

computers comprising a content server upon which the steps of the method are

implemented in computer memory and at least one computer processor, the

method comprising the steps of:

receiving digital content from the sources, the digital content having a multiplicity

of digital formats;

receiving, from a remote director, and storing in computer memory, remote

director instructions, the remote director instructions including instructions for

selections of digital content for inclusion in an output stream;

carrying out the remote director instructions, wherein carrying out the remote

director instructions further comprises:

selecting, in dependence upon the remote director's instructions, digital content for inclusion in an output stream;

transcoding, in dependence upon the remote director's instructions, the digital content from sources into digital content having streaming format;

including in an output stream, in dependence upon the remote director's instructions, digital content having streaming format;

communicating, in dependence upon the remote director's instructions, to at least one of the client devices the output stream.

2. The method of claim 1, wherein the client devices comprise client device attributes, said transcoding further comprising transcoding in dependence upon the client device attributes.

3. The method of claim 2 wherein client device attributes include device type, screen size, frame rate, and audio status.

4. The method of claim 1 wherein the remote director comprises a personal computer coupled through a network to the content server, the method further comprising:

sending from the remote director to the content server remote director instructions, further comprising invoking through URLs displayed on a terminal of the remote director member methods in servlets installed on the content server.

5. The method of claim 4 wherein the invoking through URLs further comprises invoking through each URL a single member method in a servlet.

6. The method of claim 5 wherein the single member method is programmed to carry out a single remote director instruction.

7. The method of claim 5 wherein the single member method is implemented as a Java thread-level URL dispatch routine.

8. The method of claim 4 wherein the remote director instruction comprises an instruction to select for transcoding and streaming digital content from a specific source.

9. The method of claim 1 further comprising the steps of:

registering a user for a service, the service identified by a service identification code, the service comprising at least one output stream;

logging in the user for the service, logging in the user further comprising

assigning values to user login attributes, the user login attributes comprising user

identification, device type, network address, and a tier;

assigning a tier value in dependence upon the device type and the service

identification code;

wherein the selections are dependent upon the tier;

wherein transcoding further comprises transcoding in dependence upon the tier;

and

wherein communicating to at least one of the client devices the output stream

further comprises communicating the output stream to the network address.

10.   The method of claim 6 wherein:

registering a user further comprises creating a service registration record

comprising service registration attributes comprising user id, service id and

service subscription level; and

assigning a tier value further comprises assigning a tier value in dependence upon

the service subscription level.

11.   The method of claim 1 further comprising the steps of:

registering a user for an event, the event identified by an event identification code, the event comprising at least one output stream, at least one source, a start date and a start time;

logging in the user for the event, logging in the user further comprising assigning values to user login attributes, the user login attributes comprising user identification, device type, network address, and a tier;

assigning a tier value in dependence upon the device type and the event identification code;

wherein the selections are dependent upon the tier;

wherein transcoding further comprises transcoding in dependence upon the tier; and

wherein communicating to at least one of the client devices the output stream further comprises communicating the output stream to the network address.

12.   The method of claim 5 wherein:

registering a user further comprises creating an event registration record

comprising event registration attributes comprising user id, event id, event

subscription level, start date, and start time; and

assigning a tier value further comprises assigning a tier value in dependence upon

the event subscription level.

13.   A system for remote direction of streaming digital content from a multiplicity of

sources of digital information to a multiplicity of client devices the system

implemented upon a network of digital computers, at least one of the digital

computers comprising a content server upon which the system is implemented in

computer memory and upon at least one computer processor, the system

comprising:

means for receiving digital content from the sources, the digital content having a

multiplicity of digital formats;

means for receiving, from a remote director, and storing in computer memory,

remote director instructions, the remote director instructions including

instructions for selections of digital content for inclusion in an output stream;

means for transcoding the digital content from sources into digital content having streaming format;

means for including in an output stream, in dependence upon the remote director's instructions, digital content having streaming format;

means for communicating to at least one of the client devices the output stream.

14. The system of claim 13, wherein the client devices comprise client device attributes, said means for transcoding further comprising means for transcoding in dependence upon the client device attributes.

15. The system of claim 14 wherein client device attributes include device type, screen size, frame rate, and audio availability.

16. The system of claim 13 wherein the remote director comprises a personal computer coupled through a network to the content server, the system further comprising:

means for sending from the remote director to the content server remote director instructions, further comprising means for invoking through URLs displayed on a terminal of the remote director member methods in servlets installed on the content server.

17. The system of claim 16 wherein the means for invoking through URLs further comprises means for invoking through each URL a single member method in a servlet.

18. The system of claim 17 wherein the single member method is programmed to carry out a single remote director instruction.

19. The system of claim 17 wherein the single member method is implemented as a thread-level Java URL dispatch routine.

20. The system of claim 16 wherein the remote director instruction comprises an instruction to select for transcoding and streaming digital content from a specific source.

21. The system of claim 13 further comprising:

means for registering a user for a service, the service identified by a service identification code, the service comprising at least one output stream;

means for logging in the user for the service, said means for logging in the user further comprising means for assigning values to user login attributes, the user

login attributes comprising user identification, device type, network address, and a tier;

means for assigning a tier value in dependence upon the device type and the service identification code;

wherein the selections are dependent upon the tier;

wherein means for transcoding further comprises means for transcoding in dependence upon the tier; and

wherein means for communicating to at least one of the client devices the output stream further comprises means for communicating the output stream to the network address.

22. The system of claim 18 wherein:

means for registering a user further comprises means for creating a service registration record comprising service registration attributes comprising user id, service id and service subscription level; and

means for assigning a tier value further comprises means for assigning a tier value in dependence upon the service subscription level.

23.   The system of claim 13 further comprising:

means for registering a user for an event, the event identified by an event

identification code, the event comprising at least one output stream, at least one

source, a start date and a start time;

means for logging in the user for the event, logging in the user further comprising

assigning values to user login attributes, the user login attributes comprising user

identification, device type, network address, and a tier;

means for assigning a tier value in dependence upon the device type and the event

identification code;

wherein the selections are dependent upon the tier;

wherein means for transcoding further comprises means for transcoding in

dependence upon the tier; and

wherein means for communicating to at least one of the client devices the output

stream further comprises means for communicating the output stream to the

network address.

24.   The system of claim 17 wherein:

means for registering a user further comprises means for creating an event

registration record comprising event registration attributes comprising user id,

event id, event subscription level, start date, and start time; and

means for assigning a tier value further comprises means for assigning a tier value

in dependence upon the event subscription level.

25.   A computer program product for remote direction of streaming digital content

from a multiplicity of sources of digital information to a multiplicity of client

devices the system implemented upon a network of digital computers, at least one

of the digital computers comprising a content server upon which the system is

implemented in computer memory and upon at least one computer processor, the

computer program product comprising:

a recording medium;

means, recorded on the recording medium, for receiving digital content from the

sources, the digital content having a multiplicity of digital formats;

means, recorded on the recording medium, for receiving, from a remote director,

and storing in computer memory, remote director instructions, the remote director

instructions including instructions for selections of digital content for inclusion in an output stream;

means, recorded on the recording medium, for transcoding the digital content from sources into digital content having streaming format;

means, recorded on the recording medium, for including in an output stream, in dependence upon the remote director's instructions, digital content having streaming format;

means, recorded on the recording medium, for communicating to at least one of the client devices the output stream.

26.   The computer program product of claim 25, wherein the client devices comprise client device attributes, said means for transcoding further comprising means for transcoding in dependence upon the client device attributes.

27.   The computer program product of claim 26 wherein client device attributes include device type, screen size, frame rate, and audio availability.

28.   The computer program product of claim 25 wherein the remote director comprises a personal computer coupled through a network to the content server, the system further comprising:

means, recorded on the recording medium, for sending from the remote director to
the content server remote director instructions, further comprising means,
recorded on the recording medium, for invoking through URLs displayed on a
terminal of the remote director member methods in servlets installed on the
content server.

29.   The computer program product of claim 28 wherein the means for invoking
through URLs further comprises means for invoking through each URL a single
member method in a servlet.

30.   The computer program product of claim 29 wherein the single member method is
programmed to carry out a single remote director instruction.

31.   The computer program product of claim 29 wherein the single member method is
implemented as a thread-level Java URL dispatch routine.

32.   The computer program product of claim 28 wherein the remote director
instruction comprises an instruction to select for transcoding and streaming digital
content from a specific source.

33.   The computer program product of claim 25 further comprising:

means, recorded on the recording medium, for registering a user for a service, the service identified by a service identification code, the service comprising at least one output stream;

means, recorded on the recording medium, for logging in the user for the service, said means for logging in the user further comprising means for assigning values to user login attributes, the user login attributes comprising user identification, device type, network address, and a tier;

means, recorded on the recording medium, for assigning a tier value in dependence upon the device type and the service identification code;

wherein the selections are dependent upon the tier;

wherein means for transcoding further comprises means for transcoding in dependence upon the tier; and

wherein means for communicating to at least one of the client devices the output stream further comprises means for communicating the output stream to the network address.

34.   The computer program product of claim 30 wherein:

means for registering a user further comprises means for creating a service

registration record comprising service registration attributes comprising user id,

service id and service subscription level; and

means for assigning a tier value further comprises means for assigning a tier value

in dependence upon the service subscription level.

35.   The computer program product of claim 25 further comprising:

means, recorded on the recording medium, for registering a user for an event, the

event identified by an event identification code, the event comprising at least one

output stream, at least one source, a start date and a start time;

means, recorded on the recording medium, for logging in the user for the event,

logging in the user further comprising assigning values to user login attributes, the

user login attributes comprising user identification, device type, network address,

and a tier;

means, recorded on the recording medium, for assigning a tier value in

dependence upon the device type and the event identification code;

wherein the selections are dependent upon the tier;

wherein means for transcoding further comprises means for transcoding in dependence upon the tier; and

wherein means for communicating to at least one of the client devices the output stream further comprises means for communicating the output stream to the network address.

36.   The computer program product of claim 29 wherein:

means for registering a user further comprises means for creating an event registration record comprising event registration attributes comprising user id, event id, event subscription level, start date, and start time; and

means for assigning a tier value further comprises means for assigning a tier value in dependence upon the event subscription level.

**APPENDIX OF EVIDENCE
ON APPEAL IN PATENT APPLICATION OF
WILLIAM K. BODIN, *ET AL.*, SERIAL NO. 09/881,915**

This is an evidence appendix in accordance with 37 CFR § 41.37(c)(1)(ix).

There is in this case no evidence submitted pursuant to 37 CFR §§ 1.130, 1.131, or 1.132, nor is there in this case any other evidence entered by the examiner and relied upon by the appellants.

RELATED PROCEEDINGS APPENDIX

This is a related proceedings appendix in accordance with 37 CFR § 41.37(c)(1)(x).
There are no decisions rendered by a court or the Board in any proceeding identified
pursuant to 37 CFR § 41.37(c)(1)(ii).